

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KITCHEN WINNERS NY INC.,

Plaintiff,

vs.

ROCK FINTEK LLC,

Defendant.

Civil Action No. 22-cv-05276-PAE

ROCK FINTEK LLC,

*Counterclaim and Third-
Party Plaintiff,*

vs.

KITCHEN WINNERS NY INC,

Counterclaim Defendant,

and

ADORAMA INC., HERSHEY WEINER, JOSEPH
MENDLOWITZ, JNS CAPITAL HOLDINGS LLC
and JOEL STERN,

Third-Party Defendants.

ANSWER

Plaintiff/Counterclaim Defendant Kitchen Winners NY Inc. (“Kitchen Winners”) and Third-Party Defendants Adorama Inc. (“Adorama”), Hershey Weiner (“Weiner”), and Joseph Mendlowitz (“Mendlowitz”; collectively, “Defendants”), as and for their answer to Counterclaim and Third-Party Plaintiff Rock Fintek LLC’s (“Rock Fintek”) First Amended Counterclaim and Third-Party Complaint (the “FAC”), respond as follows:

1. Defendants deny the allegations contained in Paragraph “1” of the FAC.
2. Defendants deny the allegations contained in Paragraph “2” of the FAC.
3. Defendants deny the allegations contained in Paragraph “3” of the FAC.
4. Defendants deny the allegations contained in Paragraph “4” of the FAC.
5. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5” of the FAC.
6. Defendants deny the allegations contained in paragraph “6” of the FAC; except that Adorama has a principal place of business at 42 W 18th Street, New York, New York 10011.
7. Defendants admit the allegations contained in paragraph “7” of the FAC.
8. Defendants admit the allegations contained in paragraph “8” of the FAC.
9. Defendants deny the allegations contained in paragraph “9” of the FAC.
10. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “10” of the FAC.
11. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “11” of the FAC.
12. Paragraph “12” of the FAC calls for a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “12” of the FAC.
13. Paragraph “13” of the FAC calls for a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “13” of the FAC.

14. Paragraph “14” of the FAC calls for a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “14” of the FAC.

15. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “15” of the FAC.

16. Defendants deny the allegations contained in paragraph “16” of the FAC; except admit that Adorama is a New York corporation engaged in, *inter alia*, the business of selling and renting electronics.

17. Defendants deny the allegations in paragraph “17” of the FAC.

18. Defendants admit that prices for PPE increased during the COVID-19 pandemic; and deny having knowledge or information sufficient to support a belief as to the truth of the remaining allegations in paragraph “18” of the FAC.

19. Defendants deny the allegations in paragraph “19” of the FAC.

20. Defendants deny the allegations in paragraph “20” of the FAC.

21. Defendants deny the allegations in paragraph “21” of the FAC.

22. Defendants deny the allegations in paragraph “22” of the FAC.

23. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “23” of the FAC.

24. Defendants deny the allegations in paragraph “24” of the FAC.

25. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “25” of the FAC.

26. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “26” of the FAC; except admit that Joel Stern and JNS are not affiliates of Kitchen Winners or Adorama.

27. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “27” of the FAC.

28. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “28” of the FAC.

29. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “29” of the FAC.

30. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “30” of the FAC.

31. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “31” of the FAC.

32. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “32” of the FAC.

33. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “33” of the FAC.

34. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “34” of the FAC.

35. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “35” of the FAC.

36. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “36” of the FAC.

37. Defendants deny the allegations in paragraph “37” of the FAC.

38. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “38” of the FAC.

39. Paragraph “39” of the FAC calls for a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “39” of the FAC.

40. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “40” of the FAC.

41. Defendants deny the allegations in paragraph “41” of the FAC.

42. Defendants deny the allegations in paragraph “42” of the FAC.

43. Defendants deny the allegations in paragraph “43” of the FAC.

44. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “44” of the FAC.

45. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “45” of the FAC.

46. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “46” of the FAC.

47. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “47” of the FAC.

48. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “48” of the FAC.

49. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “49” of the FAC.

50. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “50” of the FAC.

51. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “51” of the FAC.

52. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “52” of the FAC.

53. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “53” of the FAC.

54. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “54” of the FAC.

55. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “55” of the FAC.

56. Defendants deny the allegations in paragraph “56” of the FAC.

57. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “57” of the FAC.

58. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “58” of the FAC.

59. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “59” of the FAC.

60. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “60” of the FAC.

61. Defendants deny the allegations in paragraph “61” of the FAC.

62. Defendants deny the allegations contained in paragraph “62” of the FAC; and refer the Court to the Sales and Purchase Agreement dated April 7, 2021 (the “SPA”), which speaks for itself.

63. Defendants deny the allegations contained in paragraph “63” of the FAC.

64. Defendants deny the allegations contained in paragraph “64” of the FAC, and refer the Court to the SPA, which speaks for itself.

65. Defendants deny the allegations contained in paragraph “65” of the FAC, and refer the Court to the SPA, which speaks for itself.

66. Defendants deny the allegations contained in paragraph “66” of the FAC, and refer the Court to the SPA, which speaks for itself.

67. Defendants deny the allegations contained in paragraph “67” of the FAC.

68. Defendants deny the allegations contained in paragraph “68” of the FAC, and refer the Court to the SPA, which speaks for itself.

69. Defendants deny the allegations contained in paragraph “69” of the FAC.

70. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “70” of the FAC.

71. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “71” of the FAC

72. Defendants deny the allegations contained in paragraph “72” of the FAC.

73. Defendants deny the allegations contained in paragraph “73” of the FAC.

74. Defendants deny the allegations contained in paragraph “74” of the FAC.

75. Defendants deny the allegations contained in paragraph “75” of the FAC.

76. Defendants deny the allegations contained in paragraph “76” of the FAC.

77. Defendants admit that Kitchen Winners delivered more gloves to Rock Fintek than were required under the SPA; and deny having knowledge or information sufficient to form a belief as to the remaining allegations contained in paragraph “77” of the FAC.

78. Defendants deny the allegations contained in paragraph “78” of the FAC, and refer the Court to the SPA, which speaks for itself.

79. Defendants deny the allegations contained in paragraph “79” of the FAC.

80. Defendants deny the allegations contained in paragraph “80” of the FAC.

81. Defendants deny the allegations contained in paragraph “81” of the FAC.

82. Defendants deny having knowledge or information sufficient to support a belief as to the truth of the allegations contained in paragraph “82” of the FAC.

83. Defendants deny the allegations contained in paragraph “83” of the FAC.

84. Defendants deny the allegations contained in paragraph “84” of the FAC.

85. Defendants deny the allegations contained in paragraph “85” of the FAC.

86. Defendants deny the allegations contained in paragraph “86” of the FAC.

87. Defendants deny the allegations contained in paragraph “87” of the FAC.

88. Defendants deny the allegations contained in paragraph “88” of the FAC.

89. Defendants deny the allegations contained in paragraph “89” of the FAC.

90. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “90” of the FAC.

91. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “91” of the FAC.

92. Defendants deny the allegations contained in paragraph “92” of the FAC.

93. Defendants deny the allegations contained in paragraph “93” of the FAC.

94. Defendants deny the allegations contained in paragraph “94” of the FAC.

95. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “95” of the FAC.

96. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “96” of the FAC.

97. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “97” of the FAC.

98. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “98” of the FAC.

99. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “99” of the FAC.

100. Defendants deny the allegations contained in paragraph “100” of the FAC.

101. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “101” of the FAC.

102. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “102” of the FAC.

103. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “103” of the FAC.

104. Defendants deny the allegations contained in paragraph “104” of the FAC.

105. Defendants deny the allegations contained in paragraph “105” of the FAC.

106. Defendants deny the allegations contained in paragraph “106 of the FAC.

107. Defendants deny the allegations contained in paragraph “107” of the FAC.

108. Defendants deny the allegations contained in paragraph “108” of the FAC.

109. Defendants deny the allegations contained in paragraph “109” of the FAC.

110. Defendants deny the allegations contained in paragraph “110” of the FAC.

111. Defendants deny the allegations contained in paragraph “111” of the FAC.

112. Defendants deny having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “112” of the FAC.

113. Defendants deny the allegations contained in paragraph “113” of the FAC.

114. Defendants deny the allegations contained in paragraph “114” of the FAC.

115. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “114” as if completely set forth herein in response to paragraph “115” of the FAC.

116. Defendants deny the allegations contained in paragraph “116” of the FAC, and refer the Court to the SPA, which speaks for itself.

117. Defendants deny the allegations contained in paragraph “117” of the FAC.

118. Defendants deny the allegations contained in paragraph “118” of the FAC.

119. Defendants deny the allegations contained in paragraph “119” of the FAC.

120. Defendants deny the allegations contained in paragraph “120” of the FAC.

121. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “120” as if completely set forth herein in response to paragraph “121” of the FAC.

122. Defendants deny the allegations contained in paragraph “122” of the FAC.

123. Defendants deny the allegations contained in paragraph “123” of the FAC.

124. Defendants deny the allegations contained in paragraph “124” of the FAC.

125. Defendants deny the allegations contained in paragraph “125” of the FAC.

126. Defendants deny the allegations contained in paragraph “126” of the FAC.

127. The allegations contained in paragraph “127” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “127” of the FAC.

128. The allegations contained in paragraph “128” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “128” of the FAC.

129. The allegations contained in paragraph “129” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “129” of the FAC.

130. The allegations contained in paragraph “130” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “130” of the FAC.

131. The allegations contained in paragraph “131” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “131” of the FAC.

132. The allegations contained in paragraph “132” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “132” of the FAC.

133. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “132” as if completely set forth herein in response to paragraph “133” of the FAC.

134. Defendants deny the allegations contained in paragraph “134” of the FAC.

135. Defendants deny the allegations contained in paragraph “135” of the FAC.

136. Defendants deny the allegations contained in paragraph “136” of the FAC.

137. The allegations contained in paragraph “137” of the FAC are not directed at Defendants and as such no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph “137” of the FAC.

138. Defendants deny the allegations contained in paragraph “138” of the FAC.

139. The allegations contained in paragraph “139” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “139” of the FAC.

140. The allegations contained in paragraph “140” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “140” of the FAC.

141. The allegations contained in paragraph “141” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “141” of the FAC.

142. The allegations contained in paragraph “142” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “142” of the FAC.

143. The allegations contained in paragraph “143” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is

required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “143” of the FAC.

144. The allegations contained in paragraph “144” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “144” of the FAC.

145. The allegations contained in paragraph “145” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “145” of the FAC.

146. The allegations contained in paragraph “146” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “146” of the FAC.

147. The allegations contained in paragraph “147” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “147” of the FAC.

148. The allegations contained in paragraph “148” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “148” of the FAC.

149. The allegations contained in paragraph “149” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “149” of the FAC.

150. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “149” as if completely set forth herein in response to paragraph “150” of the FAC.

151. The allegations contained in paragraph “151” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “151” of the FAC.

152. The allegations contained in paragraph “152” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “152” of the FAC.

153. The allegations contained in paragraph “153” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “153” of the FAC.

154. The allegations contained in paragraph “154” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “154” of the FAC.

155. The allegations contained in paragraph “155” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “155” of the FAC.

156. The allegations contained in paragraph “156” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “156” of the FAC.

157. The allegations contained in paragraph “157” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “157” of the FAC.

158. The allegations contained in paragraph “158” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “158” of the FAC.

159. The allegations contained in paragraph “159” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “159” of the FAC.

160. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “159” as if completely set forth herein in response to paragraph “160” of the FAC.

161. Defendants deny the allegations contained in paragraph “161” of the FAC, and refer the Court to the SPA, which speaks for itself.

162. Defendants deny the allegations contained in paragraph “162” of the FAC.

163. Defendants deny the allegations contained in paragraph “163” of the FAC.

164. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “163” as if completely set forth herein in response to paragraph “164” of the FAC.

165. The allegations contained in paragraph “165” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “165” of the FAC.

166. The allegations contained in paragraph “166” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “166” of the FAC.

167. The allegations contained in paragraph “167” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “167” of the FAC.

168. The allegations contained in paragraph “168” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “168” of the FAC.

169. The allegations contained in paragraph “169” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “169” of the FAC.

170. The allegations contained in paragraph “170” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “170” of the FAC.

171. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “170” as if completely set forth herein in response to paragraph “171” of the FAC.

172. The allegations contained in paragraph “172” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “172” of the FAC.

173. The allegations contained in paragraph “173” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “173” of the FAC.

174. The allegations contained in paragraph “174” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “174” of the FAC.

175. The allegations contained in paragraph “175” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “175” of the FAC.

176. The allegations contained in paragraph “176” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “176” of the FAC.

177. The allegations contained in paragraph “177” of the FAC have been dismissed pursuant to the Court’s Opinion & Order dated March 31, 2023, and therefore no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph “177” of the FAC.

178. Defendants repeat, reiterate, and reallege the admissions and denials of paragraphs “1” through “177” as if completely set forth herein in response to paragraph “178” of the FAC.

179. Defendants deny the allegations contained in paragraph “179” of the FAC.

180. Defendants deny the allegations contained in paragraph “180” of the FAC.

181. Defendants deny the allegations contained in paragraph “181” of the FAC.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. Rock Fintek has failed to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. Rock Fintek’s claims are barred, in whole or in part, by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

3. Rock Fintek's claims are barred by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

4. Rock Fintek's claims are barred because of the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE

5. Should Rock Fintek recover damages as a result of a finding of liability, in whole or in part, as against Defendants, such recovery should be reduced in proportion to the degree of comparative negligence of Rock Fintek and of other parties contributing to such damages.

SIXTH AFFIRMATIVE DEFENSE

6. Rock Fintek's claims are barred by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

7. Rock Fintek's claims are barred by its own conduct.

EIGHTH AFFIRMATIVE DEFENSE

8. Any amounts that Defendants allegedly owe to Rock Fintek, must be offset by the amounts owed by Rock Fintek to Defendants.

NINTH AFFIRMATIVE DEFENSE

9. Rock Fintek's claims are barred by the doctrine of estoppel.

TENTH AFFIRMATIVE DEFENSE

10. Rock Fintek's claims are barred by its failure to mitigate damages.

ELEVENTH AFFIRMATIVE DEFENSE

11. Rock Fintek's claims are barred because of its failure to add indispensable parties.

TWELFTH AFFIRMATIVE DEFENSE

12. Rock Fintek's claims are barred because any alleged loss was caused by its own negligence, carelessness, lack of care, and/or culpable conduct.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Rock Fintek received remuneration and/or compensation for some or all of its claimed economic loss. Defendants are therefore entitled to have any award reduced by the amount of said remuneration pursuant to CPLR § 4545.

FOURTEENTH AFFIRMATIVE DEFENSE

14. Rock Fintek lacks standing to bring the claims asserted in the FAC.

FIFTEENTH AFFIRMATIVE DEFENSE

15. Rock Fintek's claims are barred because they lack the requisite specificity.

SIXTEENTH AFFIRMATIVE DEFENSE

16. Defendants have no knowledge or means of ascertaining the truth or falsity of the allegations concerning the injuries, sufferings, and/or damages alleged to have been sustained by Rock Fintek and the same are accordingly denied and strict proof thereof is demanded at the trial of this case.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. Rock Fintek's claims are barred due to its own breach of the applicable Agreement.

DEFENSES RESERVED

18. Defendants expressly reserve their right to amend and/or supplement their Answer, defenses, and all other pleadings.

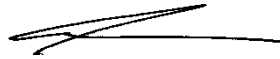
WHEREFORE, Defendants request that the Court grant relief and judgment as follows:

- a. Dismissing Rock Fintek's FAC; and
- b. Granting such other and further relief as the Court may deem just and proper.

Dated: Kew Gardens, New York
April 14, 2023

LIPSIUS-BENHAIM LAW LLP

*Attorneys for Plaintiff/Counterclaim Defendant
Kitchen Winners NY Inc. and Third-Party
Defendants Adorama Inc., Hershey Weiner, and
Joseph Mendlowitz*



By: _____

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